IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.5403 OF 2005

Shree Samartha Bhaji Mandiai
Vikreta Sangh. ...Petitioner.

Vs.

Satara Municipal Council & Ors. ...Respondents.

....

Mr.U.P.Warunjikar for the Petitioner.

Mr.P.B.Shah for Respondent No.1.

Mr.C.R.Sonawane, AGP for Respondent No.2.

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CORAM : F.I.REBELLO AND
DR.D.Y.CHANDRACHUD,JJ.
September 27, 2005.

P.C.:

Heard the Learned Counsel for the parties. On behalf of the Municipal Council, the Learned Counsel points out that steps have been taken to acquire the land for construction of a Vegetable Market. That order has been challenged

by the land owners by filing Regular Civil Suit No.478 of 2001 in the Court of the Civil Judge, S.D., Satara. There was, it is submitted, some interim order passed against which the Municipal Council has filed Writ Petition No.2184 of 2004 and which is pending before this Court. In these circumstances, the Municipal Council points out that they are unable to construct the Vegetable Market.

2. Considering the facts and circumstances, we direct Respondent No.1, Satara Municipal Council to move an application before the Trial Court within a period of six weeks from today, considering the law laid down by the Apex Court as to maintainability of a suit in the matter of land acquisition proceedings. If such an application is moved, the trial Court would frame preliminary issue after hearing the parties and thereafter, dispose of the same according to law within a period of 12 weeks thereafter.

3. Considering the above directions, we do not think it appropriate at this stage to consider the prayer of the Petitioner. It would be open to them to take such steps as advised and this order will not stand in their way.

4. The Petition is accordingly disposed of.

(F.I. Rebello, J.)

(Dr.D.Y.Chandrachud, J.)